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Docket No.: MASIMO.376A

App. No.: 10/671,179

NOV 20 2006 November 20, 2006

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## TERMINAL DISCLAIMER UNDER 37 CFR § 1.321

Applicant : Massi E. Kiani, et al.  
 App. No : 10/671,179  
 Filed : September 25, 2003  
 For : PARAMETER COMPENSATED  
 PULSE OXIMETER  
 Examiner : Etsub D. Berhanu  
 Art Unit : 3768

CERTIFICATE OF FAX TRANSMISSION  
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I hereby certify that this correspondence and all  
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 facsimile to the USPTO centralized Fax No.  
 (571) 273-8300 on the date shown below:

November 20, 2006

(Date)

John M. Grover, Reg. No. 42,640

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

*Disclaimer by Assignee*

Assignee, MASIMO CORPORATION ("Assignee"), hereby disclaims, except as provided below, the terminal part of any patent granted on the above-referenced application which would extend beyond the expiration date of the full statutory term of any patent issuing from U.S. Patent Application No. 10/714,526, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the above-identified application and any patent issuing from U.S. Patent Application No. 10/714,526 are co-owned. This agreement extends to any patent granted on the above-referenced application and shall be binding on its successors or assigns.

Assignee does not disclaim any terminal part of any patent granted on the above-referenced application prior to the earlier of the expiration date of the full statutory term of any patent issuing from U.S. Patent Application No. 10/714,526, and that of any patent issuing on the above-identified application in the event that either one later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term, except for the separation of legal title stated above.

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***Right of Assignee and Ownership***

In accordance with 37 C.F.R. § 3.73(b), Assignee represents that it is the owner of a 100 percent interest in the above-identified application and co-owned, Application No. 10/714,526. The assignment of Application No. 10/714,526 is recorded at Reel No. 015600, Frame No. 0601 by the Assignment Branch of the Patent and Trademark Office. The Assignee represents that, to the best of Assignee's knowledge and belief, title is in the Assignee seeking to take action.

***Empowerment of Attorney***

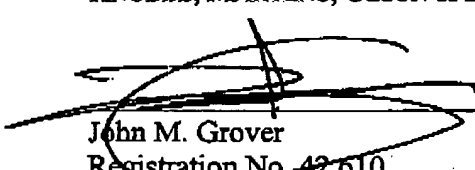
Pursuant to 37 C.F.R. 1.321(a) the undersigned attorney of record is empowered to act on behalf of the Assignee, by virtue of a Power of Attorney.

This Terminal Disclaimer is accompanied by the \$130 fee set forth in 37 C.F.R. § 1.20(d).

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR LLP

Date: November 20, 2006



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